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PATENT APPLICATION



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
TOHRU DEN, ET AL.)
Application No.: 09/666,605)
Filed: September 20, 2000)
For: STRUCTURE HAVING)
PORES, DEVICE USING)
THE SAME, AND)
MANUFACTURING METHODS)
THEREFOR)
Examiner: S. Hu
Group Art Unit: 2811
July 17, 2002

#11
Election
FJONES
8-8-02

Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Sir:

In response to the Office Action dated June 17, 2002 (paper no. 10), which required election between allegedly distinct species, Applicants provisionally elect, with traverse, to prosecute Species I, namely the embodiment identified by the Office Action as involving an electroconductive filling material. Claims 1 to 9, 12 to 20 and 46 read on the elected species.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on July 17, 2002
(Date of Deposit)

Michael K. O'Neill
Name of Attorney for Applicant
Michael K. O'Neill Signature July 17, 2002 Date of Signature

The Office Action states that currently no claims are generic. Applicants respectfully disagree. At least Claims 1, 5, 12, 16 and 46 are believed to be generic since each of these claims includes no material element additional to those recited in the species claims and comprehends within its confines the organization covered in each of the species. See MPEP § 806.04(d). Claims 1, 5, 12, 16 and 46 are believed to be allowable and upon the allowance of any of these claims, Applicants submit that they are entitled to the allowance of all claims directed to the species encompassed by those claims. See MPEP § 806.04(d).

Applicants traverse the election requirement on the grounds that there would not be a serious burden on the Examiner to examine the four species in a single application. In particular, it is Applicants' prerogative to present claims directed to a "reasonable" number of species for examination in a single application. See 37 C.F.R. § 1.141. In this application, four species have been identified by the Examiner, which is believed to be fully "reasonable" and further is not believed to be unduly burdensome on the Examiner.

Reconsideration and withdrawal of the election requirement are therefore respectfully requested.

Applicants' undersigned attorney may be reached in our Costa Mesa,
California office at (714) 540-8700. All correspondence should continue to be directed to
our below-listed address.

Respectfully submitted,


Attorney for Applicants

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